

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-57146-2023 (O&M)

Date of Decision: 29.11.2023

Mohammad Wajid

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Saleem Ahmed, Advocate, for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner in FIR No. 425 dated 25.10.2023, under Sections 186, 204, 332, 341, 353, 506 IPC and Section 25 of Arms Act, registered at Police Station Hathin, District Palwal, Haryana.

2. The allegations contained in the present FIR were that on the basis of complaint made by one Harwinder Singh, Bailiff in the Court of SDM, Hathin that on 25.10.2023, he went to the house of the present petitioner namely, Mohammad Wajid in one case i.e. City Union versus Wajid for executing the conditional warrant of arrest from the Court of Sh. Rajesh Garg, ADJ and when he reached at the place for execution of the conditional warrant of arrest, the petitioner alongwith 5-6 persons came in anger and started abusing and also gave fist and leg blows to him. They were

also having a countrymade pistol and thereafter torn the conditional warrant of arrest which was to be executed and also threatened him that in case he comes again then he will be killed and neither the police nor the Court can do anything to him and abused him. He tried to save his life and he became very scared. Thereafter, an MLR was conducted and he reported the same to the Additional District Judge with regard to the same.

2. Learned counsel appearing on behalf of the petitioner submitted that the petitioner has been falsely implicated in the present case and the story made in the FIR is a concocted story because the petitioner was known to the aforesaid complainant and in order to falsely implicate the petitioner, the present FIR has been registered. He further submitted that even otherwise also it can be seen only at the time of the trial as to whether the offence was committed or not and, therefore, the petitioner may be considered for grant of anticipatory bail.

3. On the last date of hearing, notice of motion was issued by this Court and the State counsel had accepted notice and had prayed for some time to seek instructions. Today, Mr. Vishal Kashyap, learned DAG, Haryana appearing on behalf of the State of Haryana submitted that he has received instructions in the present case to submit that the petitioner has committed a serious offence since he along with 5-6 more persons had beaten up and even torn the conditional warrant of arrest which was issued against the petitioner and they used countrymade pistol for scaring the complainant who was a Bailiff and who was only doing his duty for the purpose of execution of the conditional warrant of arrest. He submitted that the complainant thereafter has reported to the Additional District Judge along with the MLR. He also submitted that petitioner is a habitual offender

and is involved in three more cases which are as under:

1. *FIR No.337 dated 04.11.2020, under Sections 148, 149, 323, 365, 379-B, 120-B, 506 IPC, P.S. Sadar Tauru.*
2. *FIR No.85 dated 27.02.2021, under Section 25 of Arms Act, P.S. Nuh.*
3. *FIR No.655 dated 10.10.2022, under Section 411 IPC, P.C. City, Palwal.*

He further submitted that considering the seriousness of the offence and the fact that the petitioner and the other accomplices were having a countrymade pistol, custodial interrogation of the petitioner is required for the purpose of elicitation of truth and for qualitative investigation and also for the recovery of weapon.

4. I have heard the learned counsel for the parties.

5. As per the allegations, the complainant is a Bailiff and he had come to the house of the petitioner wherein the petitioner along with 5-6 other persons had allegedly collectively beaten up the Bailiff-complainant and allegedly was having a countrymade pistol. There are further allegation pertaining to tearing of the conditional warrant of arrest. Allegations of threatening to kill are also so stated in the FIR. As per learned State counsel, an MLR also conducted and the matter was reported to the Additional District Judge. The petitioner is also stated to be involved in 3 more cases as aforesaid. The argument which has been raised by learned counsel for the petitioner that he has been falsely implicated because the complainant/Bailiff was known to the petitioner cannot be accepted in view of the seriousness and magnitude of the offence regarding which allegations have been made in the FIR. The argument which has been raised by the learned State counsel that considering the aforesaid facts and circumstances whereby the recovery

of a countrymade pistol is to be effected and considering the magnitude and seriousness of the offence, his custodial interrogation is required does carry weight and cannot be ignored. Therefore, this Court is of the view that the petitioner does not deserve the concession of anticipatory bail.

8. Consequeuntly, the present petition is dismissed.
9. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petition only.

29.11.2023

rakesh

Whether speaking : Yes/No
Whether reportable : Yes/No

(JASGURPREET SINGH PURI)
JUDGE